

THE HONORABLE RICHARD A. JONES

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

ABDIQAFAR WAGAFE, *et al.*, on behalf
of themselves and others similarly situated,

Plaintiffs,

v.

DONALD TRUMP, President of the
United States, *et al.*,

Defendants.

No. 2:17-cv-00094-RAJ

**PLAINTIFFS' MOTION TO SEAL
EXHIBITS TO THE DECLARATION IN
SUPPORT OF PLAINTIFFS' MOTION
TO COMPEL**

Noting Date: January 24, 2020

I. INTRODUCTION

Plaintiffs respectfully request leave to keep under seal Exhibits 1–3 attached to the Declaration of Heath Hyatt in Support of Plaintiffs' Motion to Compel ("Hyatt Declaration"), which are filed at Dkt. 313.

On January 9, 2020, Plaintiffs moved to compel production of 64 documents that appear to be particularly relevant to Plaintiffs' challenge of the Controlled Application Review and Resolution Program ("CARRP") and related extreme vetting programs and unredacted versions of the Certified Administrative Record. *See generally* Dkt. 312. Defendants invoked the law enforcement privilege and/or the deliberative process privilege over these documents. *See id.* Plaintiffs filed an excerpt of one of these documents and a matching excerpt of Defendants' informal re-production of this same document as exhibits to the Hyatt Declaration. Plaintiffs also filed the document titles of the 64 documents on which it moved to compel under seal.

1 Defendants designated these documents and the titles of these documents as “Confidential”
2 under the parties’ Protective Order (Dkt. 86). Despite a meet and confer on this issue and
3 subsequent communication, Defendants maintain their confidentiality designation over the
4 documents filed under seal and the titles of the 64 documents that Plaintiffs moved to compel.
5 Plaintiffs have provisionally filed under seal Exhibits 1-3 attached to the Hyatt Declaration.

6 7 **II. CERTIFICATION**

8 Pursuant to LCR 5(g)(3)(A), Plaintiffs certify that the parties met and conferred
9 telephonically regarding the need for this motion on January 9, 2020. Brian Kipnis, Ethan
10 Kanter, Victoria Braga, and other DOJ counsel participated on behalf of Defendants and Cristina
11 Sepe and Heath Hyatt participated on behalf of the Plaintiffs. The parties also exchanged
12 electronic correspondence regarding this motion.

13 **III. ARGUMENT**

14 Plaintiffs move to keep under seal Exhibits 1–3 attached to the Hyatt Declaration because
15 Defendants have designated these documents or the information contained in these documents as
16 confidential under the parties’ stipulated protective order, Dkt. 86 at 4 (“nor shall [Confidential
17 Information] be included in any pleading, record, or document that is not filed under seal with
18 the Court or redacted in accordance with applicable law.”). Plaintiffs disagree with this
19 designation. Defendants will presumably file a statement explaining why this material should
20 remain under seal as required by LCR 5(g). *See* LCR 5(g)(3) (“the party who designated the
21 document confidential must satisfy subpart (3)(B) in its response to the motion to seal or in a
22 stipulated motion.”).

Respectfully submitted,

s/ Jennifer Pasquarella
Jennifer Pasquarella (admitted pro hac vice)
ACLU Foundation of Southern California
1313 W. 8th Street
Los Angeles, CA 90017
Telephone: (213) 977-5236
jpasquarella@aclusocal.org

s/ Matt Adams
Matt Adams #28287
Northwest Immigrant Rights Project
615 Second Ave., Ste. 400
Seattle, WA 98122
Telephone: (206) 957-8611
matt@nwirp.org

s/ Stacy Tolchin
Stacy Tolchin (admitted pro hac vice)
Law Offices of Stacy Tolchin
634 S. Spring St. Suite 500A
Los Angeles, CA 90014
Telephone: (213) 622-7450
Stacy@tolchinimmigration.com

s/ Hugh Handeyside
s/ Lee Gelernt
s/ Hina Shamsi
Hugh Handeyside #39792
Lee Gelernt (admitted pro hac vice)
Hina Shamsi (admitted pro hac vice)
American Civil Liberties Union Foundation
125 Broad Street
New York, NY 10004
Telephone: (212) 549-2616
lgelernt@aclu.org
hhandeyside@aclu.org
hshamsi@aclu.org

DATED: January 9, 2020

s/ Harry H. Schneider, Jr.
s/ Nicholas P. Gellert
s/ David A. Perez
s/ Cristina Sepe
s/ Heath L. Hyatt
Harry H. Schneider, Jr. #9404
Nicholas P. Gellert #18041
David A. Perez #43959
Cristina Sepe #53609
Heath L. Hyatt #54141
Perkins Coie LLP
1201 Third Avenue, Suite 4900
Seattle, WA 98101-3099
Telephone: 206.359.8000
HSchneider@perkinscoie.com
NGellert@perkinscoie.com
DPerez@perkinscoie.com
CSepe@perkinscoie.com
HHyatt@perkinscoie.com

s/ Trina Realmuto
s/ Kristin Macleod-Ball
Trina Realmuto (admitted pro hac vice)
Kristin Macleod-Ball (admitted pro hac vice)
American Immigration Council
1318 Beacon Street, Suite 18
Brookline, MA 02446
Telephone: (857) 305-3600
trealmuto@immcouncil.org
kmacleod-ball@immcouncil.org

s/ John Midgley
John Midgley #6511
ACLU of Washington
P.O. Box 2728
Seattle, WA 98111
Telephone: (206) 624-2184
jmidgley@aclu-wa.org

Counsel for Plaintiffs

CERTIFICATE OF SERVICE

I certify that on the date indicated below, I caused service of the foregoing document via the CM/ECF system, which will automatically send notice of such filing to all counsel of record.

DATED January 9, 2020 at Washington, D.C.

s/ Cristina Sepe

Cristina Sepe, WSBA No. 53609

Perkins Coie LLP

1201 Third Avenue, Suite 4900

Seattle, WA 98101-3099

Telephone: 206.359.8000

Facsimile: 206.359.9000

Email: CSepe@perkinscoie.com